

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
NORTHERN REGION**

**Administrative Decision
Rex Trail – RST 119, ADL 412566, ADL 401880**

Administrative Decision

In order to slow the degradation of access conditions, reduce the risks to public safety during trail travel, and to reduce the potential for more significant resource damage, the DNR, DMLW Northern Region will temporarily restrict summer motorized travel on a portion of the Rex Trail (RST 119, ADL 412566 and ADL 401880) to vehicles with a curb weight of 1500lbs or less. Winter heavy equipment travel may be authorized as appropriate with the submittal of applications and approval of individual permits, as required under the current Generally Allowed Uses regulations (11 AAC 96.020). This decision will be implemented on June 13th, 2008. This restriction will remain in effect while the Department reviews long-term management options for the Rex Trail.

Authority

This permit is being adjudicated pursuant to Alaska Statute 38.04.058 (restriction of public access), and Alaska Administrative Code 11 AAC 51 (easement management).

Administrative Record

The administrative record for the proposed action consists of case files RST 119, ADL 401880, ADL 412566, The Tanana Basin Area Plan, DMLW Northern Region White Paper (Rex Trail – Resource Management Evaluation) and this decision.

Location

The eastern Rex Trail runs from the George Parks Highway (approximately milepost 280) for more than 50 miles to the Wood River. North of the Wood River, it leaves state land and enters Fort Wainwright Military Reserve near the Blair Lakes Impact Area. The trail is reserved as a public access easement; that portion of the route between the Parks Highway and Gold King Creek is recognized as an RS 2477 right of way, designated case file RST 119. That portion of the trail between the Parks Highway and state lands near Seven Mile Lake is also overlain with Alaska Division of Lands (ADL) public access easement 412566. That portion of the trail running from Gold King Creek to state land near the Wood River is designated ADL 401880.

A small portion of the eastern route (approximately 1.5 miles east of milepost 280) has been hardened to improve access to Southwind Homestead; this improved section of the route ends in Section 11, Township 8 South, Range 8 West, FM, at the intersection of the Rex trail and another public access easement (ADL 415819) which connects with the Parks Highway near Rochester Lodge.

Legal Description

Fairbanks Meridian, Township 8 South, Range 8 West, Sections 11 and 12: That portion of the Rex Trail (RST 119 and ADL 412566) lying east of the intersection with the connecting road from Rochester Lodge, ADL415819.

Fairbanks Meridian, Township 8 South, Range 7 West, Sections 7-12
Fairbanks Meridian, Township 8 South, Range 6 West, Sections 1-4, 7-9
Fairbanks Meridian, Township 8 South, Range 5 West, Sections 2-6, 11-12
Fairbanks Meridian, Township 8 South, Range 4 West, Sections 7-8, 14-17, 23-24
Fairbanks Meridian, Township 8 South, Range 3 West, Sections 19, 27-30, 34-36
Fairbanks Meridian, Township 8 South, Range 2 West, Sections 13-15, 21-22, 26-27, 33-34
Fairbanks Meridian, Township 9 South, Range 2 West, Sections 4-6, 8-9
Fairbanks Meridian, Township 8 South, Range 1 West, Sections 1-2, 7-11
Fairbanks Meridian, Township 7 South, Range 1 West, Sections 12-13, 24-25, 36

The scope of this decision is limited to the portion of the eastern Rex trail –which is unimproved and essentially a trail - between the intersection with ADL 415819 and the southern boundary of Fort Wainwright near the Wood River.

Discussion

The Rex Trail is an important access route which has been in use since the 1920's, and serves as a vital transportation route for mining, hunting, private property access, recreation, and trapping. DNR's overall mission is derived from the Alaska Constitution, which states "It is the policy of the State to encourage the settlement of its lands and development of its resources by making them available for the maximum use consistent with the public interest". DNR's management goal for the Rex Trail is to ensure that it remains viable for long-term access. DNR recognizes that use of an unimproved trail corridor will inevitably have impact on the lands involved; damage on the trail itself is primarily a concern when it reaches a level which significantly interferes with or degrades travel conditions. The Department must also recognize that the trail does not exist in a vacuum; it is a point of origin for further travel into the backcountry. Resource damage resulting from off-trail access is a secondary, but still important consideration.

The need for regulation of timing and travel methods in order to protect long-term access use of a public easement is authorized by AS 38.04.058, which states that restrictions designed to protect public safety, public and private property must be narrowly tailored to achieve this protection while preserving access to the maximum extent practicable. DNR is further guided by 11 AAC 51.100, which state that restrictions may be imposed to 1) protect public safety, 2) protect the right-of-way and servient estate against damage that may be caused by use during storms, thawing conditions, or construction and maintenance, or 3) to protect or manage other resources in or near the right-of-way.

In its current unimproved state, the Rex Trail is most suitable for safe, reliable travel and most resistant to damage in winter, when frozen conditions and snow cover stabilize and protect wet, permafrost-underlain soils. Traditionally, summer motorized use by standard ATVs has not been reliable for continuous access from the highway to Wood River (due to presence of wetlands and river crossings), but was possible in dry years/seasons, and certainly possible in discontinuous sections of the trail.

In response to public reports of intense seasonal motorized use, increased travel with large off-road vehicles (such as Nodwells and large-tired "moose buggies") and degrading travel conditions on the eastern Rex Trail, DNR conducted an evaluation of

information including DNR field work (a preliminary trail condition assessment), land records, current statutes and regulations, scientific studies, varying public reports and concerns, data from other agencies, and possible trail management options. The report documenting this preliminary evaluation (attached to this decision) noted that the type and intensity of motorized use of the eastern Rex trail has changed in recent years, that travel conditions on the trail are deteriorating due to seasonal rutting and thermal degradation, and that public resources are being damaged and wasted due to off-trail travel. The report also noted that the resource damage which contributes to deteriorating travel conditions cannot be attributed to a single operator or vehicle type – impacts are cumulative, and public interpretations of “damage” vary. Certain conditions on the trail and nearby lands observed this fall and winter, however, are unquestionably due to the operation of wheeled and tracked vehicles larger than standard ATVs or snowmachines. Ruts in excess of 3 feet deep with tracks too wide for an ATV or snowmachine to span, and wide swaths of downed trees left in newly-created trails originating from the Rex represent forms of travel disruption and resource damage above and beyond what is possible for traditional off-road vehicles. The poor trail conditions interfere with traditional travel both in summer (which has always been variable, depending on wet or dry years) and in winter, which has traditionally been very reliable. Most of the summer large equipment use has occurred without DNR permitting, in violation of current regulations. The report listed several options for both short- and long-term management; this decision is based on the most feasible short-term management option evaluated, given the available information.

Decision

DNR’s overall management goal is to ensure that the Rex Trail remains viable for long-term general access opportunities. While DNR seeks to encourage the widest possible scope of public use without need of direct agency oversight (permitting), preliminary evaluation of the trail and changing use patterns indicate that trail conditions in both summer and winter have degraded, making travel more difficult and potentially dangerous at times. If more direct management is not implemented now, trail conditions will continue to degrade and more access opportunities may be lost, which could result in the need for much more restrictive trail management in the future.

Because any use of an unimproved trail must inevitably result in some level of impact to the right-of-way and surrounding lands, DNR cannot and does not seek to eliminate any and all sources of trail impact – this would be impossible, and inconsistent with our goals for ensuring continued access. DNR intends to allow for continued access, but restrict season and travel methods in order to minimize further trail degradation and reduce the potential for off-trail resource damage which occurs when travelers leave the main access route. This approach represents reasonable trail management, and puts that management into the appropriate context of area use. It is narrowly tailored to protect public safety and property, while preserving access to the maximum extent possible.

To be implemented beginning June 13th, 2008, summer motorized travel on the eastern Rex Trail will be restricted to off-road vehicles with a curb weight of 1500 lbs or less. Permits for summer use of larger vehicles will not be adjudicated by the Department. This restriction will apply April 15th through October 31st, unless other dates/ closure methods are specifically identified by the Department.

Travel between November 1st and April 14th will be authorized as described under the current regulations, 11 AAC 96.020 (Generally Allowed Uses on State Lands). Under

these regulations, off-road vehicles with a curb weight of 1500 lbs or less and highway vehicles with a curb weight of 10,000 lbs or less may be used without need for a permit, subject to conditions described in 11 AAC 96.025. Other vehicles will require a permit prior to travel.

DNR recognizes the need for more comprehensive evaluation of trail conditions, the relative impacts caused by different vehicles (including the extent of additional trail damage resulting from primarily ATVs), clarity and appropriateness of existing Generally Allowed Use regulations (11 AAC 96.020), and potential long-term management options for the Rex Trail (trail upgrades, realignments, etc). This restriction, therefore, is considered to be temporary. It will remain in effect until new information regarding trail conditions, impacts, or use patterns justify a different management decision. DNR is developing a plan for additional trail assessment to be conducted this upcoming season; however, the nature and extent of such work is contingent upon funding and staff availability.

 /Signed/
Northern Region Manager
Department of Natural Resources, Division of Mining, Land & Water

 May 12, 2008
Date

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received June 2, 2008 and may be mailed or delivered to Tom Irwin, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department June 13, 2008. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

Attachments:

- [Rex Trail – Resource Management Evaluation \(Executive Summary\)](#)
- [Rex Trail – Resource Management Evaluation](#)
- [Map: Eastern Rex Trail - General Land Ownership](#)